

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff,

v.

BRIAN MICHAEL WARNOCK,

Defendant.

CASE NO. 22-CR-00150-LK

ORDER GRANTING IN PART  
UNOPPOSED MOTION TO  
CONTINUE TRIAL, DEFERRING  
REQUEST TO RESET PRETRIAL  
MOTIONS DEADLINE, AND  
ORDERING PARTIES TO SHOW  
CAUSE

This matter comes before the Court on Defendant Brian Michael Warnock's Unopposed Motion to Continue Trial and Reset Motions Deadline, Dkt. No. 57,<sup>1</sup> as well as his speedy trial waiver, Dkt. No. 58. On September 21, 2022, a federal grand jury indicted Mr. Warnock on one count of Possession of a Controlled Substance with Intent to Distribute, two counts of Unlawful Possession of a Firearm, and one count of Possession of a Firearm in Furtherance of a Drug Trafficking Crime. Dkt. No. 16 at 1–3; *see* 21 U.S.C. § 841(a)(1), (b)(1)(B); 18 U.S.C. §§ 922(g)(1), 924(c)(1)(A)(i). He pleaded not guilty to all counts. Dkt. No. 22. Although Mr.

<sup>1</sup> Mr. Warnock's unopposed motion is mistakenly noted for May 12, 2023. *Id.* at 1. Under Local Criminal Rule 12(b)(8), it should be noted for December 27, 2023—the date of filing.

1 Warnock’s jury trial was originally slated to begin on November 28, 2022, *id.*, the Court granted  
2 in part his unopposed motion to continue trial to May 30, 2023, Dkt. No. 27. It thereafter granted  
3 a second unopposed motion to continue trial to January 8, 2024. Dkt. Nos. 45, 47.

4 Mr. Warnock now requests a third continuance to April 8, 2024, and wishes to reset the  
5 pretrial motions deadline to February 26, 2024. Dkt. No. 57 at 1. Defense counsel attests that this  
6 continuance is necessary because “[t]he negotiations in this case are more complicated than an  
7 ordinary single defendant case.” *Id.* According to counsel, “a resolution without trial is  
8 anticipated,” but “[t]his matter simply involves some more complex collateral issues that are  
9 integral to resolution on terms satisfactory to both parties[.]” *Id.* These remaining issues have  
10 apparently “resulted in unanticipated delay.” *Id.* Mr. Warnock avers that he has consulted with  
11 counsel and knowingly and voluntarily waives his speedy trial right, and consents to a continuance  
12 of his trial date to on or before April 8, 2024. Dkt. No. 58 at 1.

13 Pursuant to 18 U.S.C. § 3161(h)(7)(A), the Court finds that the ends of justice served by  
14 granting a continuance outweigh the best interest of the public and Mr. Warnock in any speedier  
15 trial. Specifically, the Court finds that failure to grant the requested continuance would likely result  
16 in a miscarriage of justice and would deny defense counsel the reasonable time necessary for  
17 effective preparation, taking into account the exercise of due diligence, due to counsel’s need for  
18 more time to engage in plea negotiations, explore “complex collateral issues” integral to a fair and  
19 satisfactory resolution of this case, and—to the extent no resolution is reached—to prepare for  
20 trial. *See* 18 U.S.C. § 3161(h)(7)(B)(i), (iv). The Court also finds that the additional time requested  
21 is a reasonable period of delay and will be necessary to provide counsel and Mr. Warnock  
22 reasonable time to accomplish these tasks. The Court notes, however, that filing a motion to  
23 continue on the eve of trial without good cause disrupts the Court’s schedule and may result in  
24 sanctions in the future.

1 For these reasons, the Court GRANTS IN PART the motion, Dkt. No. 57, and ORDERS  
2 that trial shall be continued from January 8, 2024 to April 8, 2024. It is further ORDERED that,  
3 pursuant to 18 U.S.C. § 3161(h)(7)(A) and (B), the period of delay from the date of this Order to  
4 the new trial date is EXCLUDED when computing the time within which Mr. Warnock's trial  
5 must commence under the Speedy Trial Act.

6 The Court, however, DEFERS its ruling on Mr. Warnock's request to reset the pretrial  
7 motions deadline because that deadline expired a month before he filed this motion. *See* Dkt. No.  
8 47 at 3 (setting pretrial motions deadline for November 27, 2023). Absent good cause, a party who  
9 fails to meet the pretrial motions deadline waives pretrial objections. *See* Fed. R. Crim. P. 12(b)(3),  
10 (c)(1), (c)(3); *United States v. Ghanem*, 993 F.3d 1113, 1120 (9th Cir. 2021). Mr. Warnock  
11 provides no explanation—let alone good cause—for his failure to file the instant motion on or  
12 before the November 27th deadline. *See generally* Dkt. No. 57. The Court therefore ORDERS Mr.  
13 Warnock to show cause by January 12, 2024 why this failure should not constitute a waiver of his  
14 Rule 12(b)(3) defenses, objections, and requests. To the extent the Government intends to file  
15 pretrial motions, it too must show cause why its failure to timely move for an extension of the  
16 pretrial motions deadline should not constitute a waiver of its Rule 12(b)(3) objections and  
17 requests.

18 Dated this 4th day of January, 2024.

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20 Lauren King  
21 United States District Judge  
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